

Message Text

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ACTION EA-10

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 4723

C O N F I D E N T I A L MANILA 8554

E.O. 11652: GDS

TAGS: RP, MASS, PFOR, PINS, PORS, SHUM

SUBJECT: FRASER HEARINGS

REF: STATE 145803

1. AS WE HAVE EMPHASIZED IN PREVIOUS REPORTING, THERE WILL ALWAYS BE CONSIDERABLE CONFUSION ABOUT POLITICAL PRISONERS HERE INCLUDING THEIR NUMBER SINCE GOVERNMENT POLICY CONSTANTLY CHANGING, TERMS BEING REDEFINED, ETC. MOREOVER, GOP CONSIDERS IT ADVANTAGEOUS TO KEEP ISSUE CONFUSED.

2. OUR UNDERSTANDING IS THAT INDIVIDUALS APPREHENDED UNDER GRAB BAG PROVISIONS OF 1081 AND FOR WHOM HEARING OFFICER DECIDES THERE IS PROBABLY CAUSE FOR APPREHENSION AND DETENTION ARE DE FACTO CONSIDERED AS "CHARGED." PREPARATION OF FORMAL DETAILED CHARGE SHEETS MAY COME LATER AS IN CASE OF LOPEZ/ OSMENA ALTHOUGH FOR THE MOST PART INDIVIDUALS SEEM TO HAVE BEEN FREED BEFORE THIS STEP IN THE PROCESS TAKES PLACE. ELAPSED TIME VARIES CONSIDERABLY BETWEEN A HEARING OFFICER FINDING THAT PROBABLE CAUSE FOR APPREHENSION EXISTS AND THE BRINGING OF AN INDIVIDUAL BEFORE A MILITARY TRIBUNAL OR CIVILIAN COURT. IN POINT OF FACT THE ONLY SO-CALLED "POLITICAL" CASE TO HAVE REACHED THIS STAGE HAS BEEN AQUINO. SEVERAL PROMINENT POLITICAL PRISONERS WERE HELD FOR ALMOST TWO YEARS BEFORE BEING RELEASED CONDITIONALLY. THEY WERE NEVER FORMALLY

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CHARGED OR AT LEAST FORMAL CHARGES WERE NOT MADE PUBLIC

(SENATOR DIOKNO). IN MOST OTHER CASES, HOWEVER, (PRIMARILY AT MARTIAL LAW OUTSET) POLITICAL PRISONERS WERE DETAINED FOR ONE OR TWO MONTHS OR LESS.

3. AN AMENDED CHARGE SHEED IN THE LEHMAN ASSASSINATION PLOT, INCLUDING LOPEZ/OSMENA, DATED AUGUST 8, 1973 WAS SUBMITTED TO MILITARY COMMISSION NO. 5. THE TWO ARE ACCUSED OF VIOLATING ARTICLE 248 (MURDER) IN CONNECTION WITH ARTICLE 6, REVISED PENAL CODE (MURDER COMMITTED BY A SYNDICATE). LOPEZ AND OSMENA APPARENTLY DID NOT SEE AMENDED CHARGES UNTIL APRIL 3, 1975, ONE DAY AFTER WHAT THEY CLAIMED WAS "FIRST SUBSTANTIVE" SESSION WITH ATTORNEY. THEY MENTIONED THIS TO CODEL FRASER DURING THEIR MEETING WITH HIM APR 5 (SEE MANILA 4259). DEPARTMENT WILL RECALL THAT LOPEZ/OSMENA BEGAN HUNGER STRIKE IN NOVEMBER AND ENDED IT WHEN THEY THOUGHT THEY HAD ASSURANCES THEY WOULD BE RELEASED BY GOVERNMENT TO THEIR HOMES AND EVENTUALLY GIVEN FULL FREEDOM AT END JANUARY 1975. ON DEC 11 MARCOS ANNOUNCED LOPEZ/OSMENA DID NOT QUALIFY FOR AMNESTY AND SAID THEY WOULD BE TRIED BY A CIVILIAN COURT. ON MAR 6, 1975 PRES MARCOS IN PRESIDENTIAL LETTER OF INSTRUCTION 255 CREATED A FIVE MAN REINVESTIGATION PANEL HEADED BY THE JUDGE ADVOCATE GENERAL OF THE ARMY TO REINVESTIGATE CRIMINAL CHARGES FILED AGAINST THOSE INVOLVED IN THE ASSASSINATION PLOT INCLUDING LOPEZ, JR., OSMENA III AND AMCIT LEHMAN. IN ANNOUNCING CREATION OF REINVESTIGATION PANEL APR 1, DEPT OF NATIONAL DEFENSE STATED MARCOS WANTED CASE REINVESTIGATED TO ENSURE RESPONDENTS "GOT FULL BENEFIT OF DUE PROCESS" AND "TO DETERMINE MORE DEFINITELY THEIR INVOLVEMENT IN CASE." (SEE MANILA 4096). LOPEZ AND OSMENA PARTICIPATED IN INITIAL HEARINGS OF REINVESTIGATION PANEL BUT LATER DECIDED TO BOYCOTT SESSIONS. ON MAY 6 THEY WERE REMOVED FROM VETERANS MEMORIAL HOSPITAL IN QUEZON CITY AND RETURNED TO FORT BONIFACIO. DEPT IS AWARE OF PROGRESS OF REINVESTIGATION THROUGH OUR REPORTING ON LEHMAN INVOLVEMENT IN SESSIONS.

PURNELL

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